

Meeting Minutes
Jefferson County Planning Commission
March 14, 2023

The Jefferson County Planning Commission met on March 14, 2023 at 7:00 pm with the following Planning Commission members present: Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Ron Thomas, and Jack Hefestay were present in person. J. Ware and Shane Roper were present via ZOOM. Mike Shepp and Matt Knott were absent with notice; Donnie Fisher was absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; and Nathan Cochran, Prosecuting Attorney.

Mr. Louthan called the meeting to order at 7:00 pm. and confirmed that a quorum was present.

1. **Approval of Meeting Minutes:** February 14, 2023

Mr. Louthan stated that the minutes stand approved without objection.

2. **Request for postponement.** Agenda Item #3 (File: 23-3-PCW) was postponed until 04/11/23. Mr. Thomas made a motion that if the applicant for File #23-3-PCW is not prepared to attend the 4/11/23 Planning Commission meeting, the application should be withdrawn and reapplied for at a later date. Mr. Hefestay seconded, which carried unanimously.

3. **Postponed until April 11, 2023.** Public Hearing: Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 20' for a three lot minor subdivision. Property Owner: Susan Reichel Et Al. Property Location: 2195 Engle Molers Rd, Harpers Ferry, WV. Parcel ID: 04000100060005; Size: 10 acres; Zoning District: Rural (File: 23-3-PCW).

See Item #2 for discussion and action related to this Item.

4. **Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction to allow a detached Accessory Dwelling Unit for a family member. See PC File #05-23; Final Plat Note #1, PB 23 / PG 57. Property Owner: Michael and Johnna Oehlsen. Property Location: Ryans Glen Subdivision, Lot 10, 227 Ryans Glen Dr., Charles Town, WV. Parcel ID: 06020B00100000; Size: 2.16 ac; Zoning District: Rural (File: 23-2-FPA).

Ms. Brockman provided an overview of the staff report.

Michael and Johnna Oehlsen, property owners, explained the nature of the request noting that they intended to first establish a catering business/commercial kitchen as a Cottage Industry in an accessory structure. Eventually the accessory structure would be converted into a detached accessory dwelling unit, which requires the single-family restriction to be lifted.

Mr. Louthan opened the public hearing. There was no public comment. Mr. Louthan closed the public hearing.

Mr. Thomas made a motion to approve the Final Plat Amendment as presented. Mr. Hefestay seconded the motion, which carried unanimously.

5. **Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Industrial-Commercial to Rural is consistent with the *Envision Jefferson*

2035 Comprehensive Plan. Property Owner: Lutman Land Development LLC. Property Location: Vacant parcels located southeast of the intersection of Norfolk & Southern Railroad and Lewisville Road, Charles Town/Summit Point, WV. Located behind John's Family Restaurant- 847 Berryville Pike & 340 Defense Shooting Range and Firearms Training - 459 Berryville Pike, Summit Point. Tax District: Kabletown (06), Map: 29; Parcel 2 comprised of 66 acres and Parcel 6 comprised of 30.89 acres. Zoning District: Industrial-Commercial (File: 23-1-Z).

Ms. Brockman provided an overview of the staff report regarding the Lutman Zoning Map Amendment (#23-1-Z) petition identifying relevant portions of the *Envision Jefferson 2035 Comprehensive Plan* for the Planning Commission's consideration and review. Staff presented a finding to the Planning Commission that while the request is not consistent with the *2035 Plan* because it is shown as future "Industrial or Commercial" on the Future Land Use Guide, the Rural (R) zoning request is reasonable for the location.

The Planning Commission invited the applicant's consultant, Paul Raco with P.J. Raco Consulting, to explain the proposed uses for the property and the choice of zoning category involved in the ZMA.

After reviewing the application, the staff report, and further discussion, Mr. Thomas made a motion that the proposed Zoning Map Amendment to Rural (R) is not consistent with the *Envision Jefferson 2035 Comprehensive Plan*. He further stated that the Residential-Light Industrial-Commercial (RLIC) zoning district is more consistent with the *Envision Jefferson 2035 Comprehensive Plan* and recommended that the applicants withdraw this petition and resubmit a petition for the RLIC zoning and that the fees should be waived. Mr. Hefestay seconded the motion, which carried unanimously.

- 6. Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Residential Growth to Residential-Light Industrial-Commercial is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Federal Group, Inc. Property Location: 233 Lowe Drive, Shepherdstown, WV. Tax District: Shepherdstown (09), Map: 8; Parcel 24.3 comprised of 1.02 acres, which is designated as a right-of-way (Lowe Drive) and Parcel 10.9 comprised of 23.67 acres (formerly the Shepherdstown Clarion). Zoning District: Residential Growth (File: 23-2-Z).

Ms. Brockman provided an overview of the staff report regarding the Clarion Zoning Map Amendment (#23-2-Z) petition identifying relevant portions of the *Envision Jefferson 2035 Comprehensive Plan* for the Planning Commission's consideration and review. The property is currently zoned Residential Growth (RG) and has had a Conditional Use Permit (CUP), issued in 1996, to permit a federal training facility with hotel rooms, dining facility, training classrooms, offices, and gymnasium. The Zoning Map Amendment request is to rezone the properties from Residential Growth (RG) to Residential-Light Industrial-Commercial (RLIC) which would allow residential uses as well as the on-going commercial and office uses. Staff presented a finding that, although the *Envision Jefferson 2035 Comprehensive Plan* recommends discouraging the use of the RLIC zoning district for all zoning map amendments, the request and the proposed uses for the 23.6-acre parcel are consistent with the intent of the recommendations of the *2035 Plan*.

The Planning Commission invited the applicant's consultant, Paul Raco with P.J. Raco Consulting, to explain the proposed new uses for the property.

After reviewing the application, the staff report, and further discussion, Mr. Louthan made a motion that the proposed Zoning Map Amendment to Residential-Light Industrial-Commercial (RLIC) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Thomas seconded the motion, which carried unanimously.

7. **Discussion and Action:** To affirm the final language for the proposed Planning Commission Policy RE: Clarification of Vested Property Rights for Concept Plans and Preliminary Plats for Phased Projects.

Ms. Brockman explained that Mr. Shepp had signed the Policy Memo (included in the packet), which reflected the motion of the February 14, 2023 meeting, but requested the Planning Commission take action to affirm the language included in the memo to ensure that it reflected the Planning Commission members' intent.

Mr. Hefestay made a motion to affirm the Policy Memo as presented by staff. Mr. Thomas seconded the motion, which carried unanimously.

8. **Reports from Legal Counsel**

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

Mr. Cochran requested to move the legal update to the end of the agenda.

9. **Planner's Memo.** Ms. Brockman provided an overview of the Planner's Memo and reminded the members of the Special Called meeting scheduled for March 28, 2023.

10. **President's Report.** None.

11. **Actionable Correspondence.** None.

12. **Non-Actionable Correspondence.** None.

Mr. Louthan made a motion to go into executive session at 7:42 p.m. to discuss Agenda Item 8.a. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Hefestay made a motion to come back in regular session at 8:00 p.m. Mr. Thomas seconded the motion, which carried unanimously.

Mr. Louthan declared the meeting adjourned at 8:01 pm.

These minutes were prepared by Jennifer Brockman, Chief County Planner.